

REMARKS

Applicants submit a Petition and Fee for a Three-Month Extension of Time.

Claims 1-16 are all the claims presently pending in the application. Claims 1-16 have been amended to more particularly define the invention. Claims 17-30, previously withdrawn pursuant to the restriction requirement, have been canceled without prejudice or disclaimer. Applicants reserve the opportunity to file a Divisional Application for the non-elected invention later.

It is noted that the claim amendments herein or later are not made to distinguish the invention over the prior art or narrow the claims or for any statutory requirements of patentability. Further, Applicants specifically state that no amendment to any claim herein or later should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Claims 1-16 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Claims 9-11 stand rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. Claims 1-16 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 of copending Application No. 09/933,119.

With respect to the prior art rejections, claims 1-16 stand rejected under 35 U.S.C. 103(a) as being unpatentable over King Jr. et al. (U.S. Patent No. 5,319,542), in view of Doyle, et al. (U.S. Patent No. 5,694,551).

These rejections are respectfully traversed in the following discussion.

I. THE 35 USC §112, SECOND PARAGRAPH REJECTION

Claims 1-16 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite. The claims have been amended, above, to overcome this rejection. Specifically, independent claims 1, 9, 12, 13, 15, and 16 have been amended to indicate that “MD” stands for “merchandise assortment,” by fully writing out the abbreviation at the first occurrence. Claims 9, 13, 14 and 16 have been amended to eliminate the indefinite language cited by the Examiner. Independent claim 9 has been amended to more particularly define that a method is being claimed.

In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw this rejection.

II. THE 35 USC § 101 REJECTION

Claims 9-11 stand rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. As noted above, independent claim 9 has been amended to more particularly define that a method is being claimed, and thus ensure that the claims are directed to statutory subject matter.

In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw this rejection.

III. THE CLAIMED INVENTION

An exemplary aspect of the present invention, as recited in claim 1, is directed to a

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system for placing orders for items, comprising a database having various masters, and a server for controlling data communications with a plurality of terminals via a network, and extracting or storing data to or from the various masters in response to requests from the terminals, wherein the database includes a merchandise master in which is registered information relating to items provided from a dealer to a customer, for each unique item number for the respective items, and a merchandise assortment (MD) related master in which is registered, as MD related information, a list of traded items, whose trades have been agreed upon beforehand between the customer and dealer, among those items stored in the merchandise master, for each purchase unit of the customer and for each dealer providing the items to the customer. The server includes an item replacing controller for, when an item stored in the merchandise master is to be replaced with an item that is a replaceable item but is not contained in the MD related information, controlling the replacement of items provided to the dealers from the customers, according to an automatic replace level defined beforehand in the MD related information. Independent claim 8 contains similar language.

Another aspect of the invention, as recited in claim 9, is directed to a method for controlling item replacement using an order placing system including a database containing merchandise assortment (MD) related information including a list of traded items whose trades have been agreed upon beforehand between a customer and dealer for each purchase unit of the customer, for each dealer providing the items, the replacement control method including:

(a) specifying beforehand a replacement form, when an item among items provided

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from the dealer to a customer is to be replaced by a new item, as an automatic replace level, for each set of MD related information wherein unit thereof is made a list of those items handled;

(b) referencing an automatic replace level, when a proposal for adopting a new product has been made to the customer by a sales activity entity, the automatic replace level being defined in MD related information for the customer;

(c) defining a form for determining a price of an old item, based on the MD related information, before or after step (b);

(d) calculating a price difference between price of the old item and a price of a new item, when the price of the new item can be calculated, based on the price determining form specified in step (c); and

(e) determining whether to implement an item replacement, or whether a query is to be made to the dealer, according to a combination of whether a price calculation was made in step (d), the price difference when such was calculated, and the automatic replace level.

Independent claim 12 is directed to a computer program product consisting of a recording medium storing a program for controlling item replacement using an order placing system substantially incorporating the method of claim 9.

Yet another aspect of the invention, as recited in claim 13, is directed, in part to a system for placing orders for items including a database and a server for controlling data communications with a plurality of terminals via a network. The database includes, in part, an item replacement master for managing the replacement of item numbers, item by item, proposed by a sales activity entity for the customer of items provided to the

customer, and an item replacement judgment master for managing condition of advance of item replacements stored in the item replacement master. The server includes an automatic replace level storage controller for storing an automatic replace level determined beforehand between the customer and dealer in the MD related information when the MD related information is stored in the MD related master, an item specific item replacement storage controller which, when replacement of an item stored in the merchandise master is proposed by the sales activity entity, stores the old item number of the item replacement and a new item number that is a new item in the item replacement master, a replacement object extraction controller which, after the old and new item numbers have been stored in the item replacement master, extracts the MD related information in which the old item number is assorted from the MD related information, an MD specific item replacement determinator for determining whether to automatically implement an item replacement, for each set of MD related information, based on an automatic replacement implementation level stored in the MD related information extracted by the replacement object extraction controller, an automatic replacement controller which, when it has been determined by the MD specific item replacement determinator to perform an item replacement automatically, stores the new item number in the MD data specified by the old item number in plurality of sets of MD data in the MD related information, and a replacement study controller which, when it has been determined by the MD specific item replacement determinator not to perform an automatic item replacement, prompts the dealer corresponding to the MD related information to store information relating to the item replacement.

A further aspect of the present invention, as recited in claim 15, is directed, in part,

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to a system that places orders for items, including a database and a server. The server includes a received order item replacing controller that, when an order placement request for ordering an item is received from a terminal used by a user belonging to the purchasing unit, references the MD related information, and, when a new item number is stored in the item, notifies user for receiving order for item of the new item number; and an out of production item order changing controller for, when the MD related information is referenced and the item number for which the order placement request was received has gone out of production, prompting the user to change or cancel the order placed for the item.

A still further aspect of the invention, as recited in claim 16, is directed to order placement data used in a system that controls order placing and receiving between a customer to whom a user using a terminal belongs and a dealer providing items such as goods or services to the customer, wherein the order placing and receiving system includes a database storing various masters, and a server for controlling data communications with a plurality of terminals via a network, and extracting or storing data to or from the various masters in response to requests from the terminals, and order placement data used by the order placing and receiving system for specifying a dealer handling an item ordered by a user. The order placement data including a data structure consisting of a merchandise assortment (MD) related master data, a data structure consisting of MD unit master data, and a data structure consisting of MD master data. The MD related master data includes an MD unit master wherein is stored an MD unit data group indicating an MD list defined for the dealer and each of the purchasing units of the customer, and an MD master wherein is stored an MD data group wherein is stored information relating to distribution of items

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belonging to the MD unit in each of those MD units. The MD master data includes an automatic replace level for specifying a replacement form when performing a replacement of an item stored in the merchandise master in each of those MD units by an item that is a replaceable item and that is not contained in the MD related information; and the MD related master data have new item number data in the item number belonging to the MD related information when item replacement has been performed for an item according to the automatic replace level.

Conventionally, when an organization trades with many dealers, purchase-related personnel costs become large. In the case of a transaction based on a regular purchase agreement, the transaction item is often determined between the customer and the dealer periodically. However, during that period, various situation arise that can affect the agreement, such as manufacture of an item being suspended, an item going out of production, or a change in the customer's business necessitating a different item than that agreed upon. However, it becomes impossible to reduce personnel costs if, during the term of the purchase agreement, the transaction items must be re-negotiated every time there is a change in the items, such as for the reasons described above. (See Application at page 4, lines 17-33)

The claimed invention, on the other hand, provides a system and method for controlling item replacement in the database according to an automatic replace level defined in the MD related information. In this manner, items in the merchandise master (or otherwise) may be readily and easily replaced with different items which meet predetermined criteria, and therefore reduce personnel costs associated with such tasks. (See Application at page 8, lines 1-33 and page 9, lines 1-7)

IV. THE DOUBLE PATENTING REJECTION

Claims 1-16 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 or copending Application No. 09-933,119 ('119 Application). While the Examiner concedes that claims are not identical, she asserts that they are not patentably distinct from each other because both applications achieved the same end result of ordering items from various masters.

Applicants respectfully submit that the cited claims are patentably distinct given disparate subject matter of the claims. In particular, claims 1-8 of the '119 Application are directed, in part, as exemplarily recited in claim 1 thereof, to:

“an item specific order controller for specifying, for each item, a dealer who offers each item in the ordering request, based on the MD related information of each purchasing unit, when it receives an ordering request for ordering one or more items from the terminal used by a user who belongs to the purchasing unit”

Thus, in the '119 Application, the invention of claims 1-8 efficiently (e.g. automatically) specifies a dealer for each item ordered by a user of a purchasing unit of a customer based on predetermined MD related information for the purchasing unit. In this manner, a user belonging to a purchasing unit of a customer may order various items based on previously determined purchase standards by merely specifying the desired items to the system and without the need for the user to possess specific knowledge of the dealers or pricing agreements. (See '119 Application at page 5, lines 20-24)

However, as noted above, the claimed invention provides a system and method for

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controlling item replacement according to an automatic replace level defined in the MD related information. In this manner, items in the merchandise master (or otherwise) may be readily and easily replaced with different items which meet predetermined criteria. (See Application at page 8, lines 1-33 and page 9, lines 1-7)

Thus, the claimed invention of the present Application is directed to patentably distinct subject matter. In particular, the Examiner is respectfully directed to the emphasized (i.e. underlined) features of the claimed invention, as indicated above in section III. The Claimed Invention. Clearly, claims 1-8 of the '119 Application do not recite the above highlighted features, or equivalents thereof, in any form.

In view of the above, the Examiner is respectfully requested to reconsider and withdraw this rejection.

V. THE PRIOR ART REFERENCES

A. The King Jr. et al. Reference

King Jr. et al. discloses a system for facilitating a user in electronically ordering items from suppliers. (King Jr. et al. at Abstract)

The Examiner alleges that King Jr. et al. discloses a system and method for ordering items including a database having a various kinds of masters, and a server which controls data communication with a plurality of terminals via a network and performs extracting or storing to the various kinds of masters in response to the terminal, wherein the database including a merchandise master which stores information on items offered from dealers to customers by each item number unique to the item, and a merchandise assortment (MD) related master

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which stores a list of traded items among the items stored in this merchandise master agreed upon between the customer and dealer beforehand as the customer specific MD related information by each purchasing unit of the customer and by each dealer who offers the item to the customer, wherein the server comprising an item specific order controller for specifying, for each item, a dealer who offers each item in the ordering request, based on the MD related information of each purchasing unit, when it receives an ordering request for ordering one or more items from the terminal used by a user who belongs to the purchasing unit. (See Office Action at page 6, item 13) (Emphasis added)

However, the cited language corresponds to claim 1 of the '119 Application. Thus, the Examiner has merely alleged that King Jr. et al. anticipates claim 1 of the '119 Application. While Applicants respectfully submit that such is not the case, the cited language does not correspond to the invention of claims 1-16 of the present Application, as indicated above. Thus, the Examiner has failed to provide any substantial basis for rejecting any of the pending claims in the present Application.

As noted above, the present claimed invention includes several different and patentably distinct features and limitations over the '119 Application. In particular, the claimed invention, as recited in claim 1, for example, is directed toward a system for placing orders including, amongst other features, an item replacing controller for, when an item stored in the merchandise master is to be replaced with an item that is a replaceable item but is not contained in the MD related information, controlling the replacement of items provided to the dealers from the customers, according to an automatic replace level defined beforehand in the MD related information. (Emphasis added)

However, King Jr. et al. does not teach or suggest a system including such an item replacing controller for controlling item replacement according to an automatic replace level, as in the claimed invention. King Jr. et al. further does not teach or suggest any of the steps of the method of controlling item replacement recited in independent claim 9, or the computer program incorporating the method of claim 9 recited in independent claim 12. King Jr. et al. likewise fails to disclose or suggest the systems for placing orders of independent claims 13 and 15, or the order placement data recited in independent claim 16. Indeed, the Examiner does not even allege that King Jr. et al. discloses such features of the claimed invention.

Rather, King et al. discloses a system consisting of three functionally distinct catalogs: a supplier master catalog, a public catalog, and a private catalog. The supplier master catalog contains the master information for all of the supplier's products and services. From the master catalog, the supplier may create a public catalog to load onto a public database for access by customers. The supplier may further create a private catalog from the master and public databases for loading and maintaining by a customer on a customer's local computer system. (See King et al. at column 3, lines 41-58) The private catalogs are customer-specific and allow the customer to load, access and identify supplier products on their own local computer systems rather than the public catalog. (See King Jr. et al. at column 2, lines 43-49)

Indeed, there is no teaching or suggestion in King Jr. et al. of a system and method for controlling item replacement in the database according to an automatic replace level defined in the MD related information, as in the claimed invention.

Clearly, there are elements of the claimed invention that are not taught or suggested

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by King Jr. et al.

B. The Doyle et al. Reference

The Examiner alleges that King Jr. et al. would have been combined with Doyle et al. to form the invention defined in claims 1-16. However, Applicants submit that these references would not have been combined and even if combined, the combination would not teach or suggest each and every element of the claimed invention.

Doyle et al. discloses an electronic requisitioning system for channeling customer requisition order to internal suppliers and outside vendors, and processing invoices using a centralized computer system. (Doyle et al. at Abstract)

Applicants respectfully submit that these references would not have been combined as alleged by the Examiner. Indeed, no person of ordinary skill in the art would have considered combining these references, absent impermissible hindsight.

In fact, Applicant submits that the Examiner can point to no motivation or suggestion in the references to urge the combination as alleged by the Examiner. Indeed, contrary to the Examiner's allegations, neither of these references teaches or suggests their combination.

Therefore, Applicants respectfully submit that one of ordinary skill in the art would not have been so motivated to combine the references as alleged by the Examiner and, therefore, the Examiner has failed to make a prima facie case of obviousness.

Further, Doyle et al. fails to make up for the deficiencies of King Jr. et al. described above. Indeed, neither King Jr. et al., nor Doyle et al., nor any combination thereof, teaches or suggests a system or method for controlling item replacement in a database according to an automatic replace level defined in the MD related information, as in the claimed invention.

As noted above, the Examiner has not fully considered the features and limitations of the invention of claims 1-16. Rather, the Examiner has based the rejections on claims 1-8 of the '119 Application, which are distinct from the claims 1-16 of the present Application, and lack several elements and limitations thereof.

Notwithstanding, Doyle et al. makes no reference or suggestion to the desirability or benefit of a system and method for controlling item replacement in the database according to an automatic replace level defined in the MD related information in order to readily and easily replace items in a merchandise master (or otherwise) with different items which meet predetermined criteria, and therefore reduce personnel costs associated with such tasks.

In light of the above, Applicants submit that these references would not have been combined and even if combined, the combination would not teach or suggest each and every element of the claimed invention. Therefore, the Examiner is respectfully requested to withdraw this rejection.

VI. FORMAL MATTERS AND CONCLUSION

Claims 1-16 have been amended to address the Examiner's objections to the format and grammar of the claims.

In view of the foregoing, Applicants submit that claims 1-16, all the claims presently being examined in the application, are patentably distinct over the prior art of record and are allowable, and that the application is in condition for allowance. Such action would be appreciated.

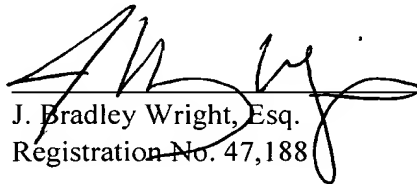
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Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned attorney at the local telephone number listed below to discuss any other changes deemed necessary for allowance in a telephonic or personal interview.

The Commissioner is authorized to charge any deficiency in fees, including extension of time fees, or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Respectfully Submitted,

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